

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: ) CHAPTER 13  
 )  
Nekeisha Emerald Carter ) CASE NO. 17-64952-PMB  
 )  
 )  
DEBTOR. )

**CHAPTER 13 TRUSTEE'S  
OBJECTION TO CONFIRMATION & MOTION TO DISMISS CASE  
PURSUANT TO 11 U.S.C. SECTION 109(g)(1)**

COMES NOW Melissa J. Davey, Chapter 13 Trustee, and objects to confirmation of the plan and files this motion to dismiss under 11 U.S.C. Sections 1307(c), 109(g), 349(a), and 105(a), for cause, including the following reasons:

1. The plan as proposed will extend beyond sixty (60) months, contrary to 11 U.S.C. Section 1322(d).
2. The Debtor has failed to maintain payments into this case as required by 11 U.S.C. Section 1326.
3. Paragraph 10 of the proposed Chapter 13 plan either (1) fails to provide an interest rate to be applied to any allowed secured claims not treated specifically under the plan, preventing the Trustee from properly administering the plan, or (2) improperly crams down the interest rate to less than the current national prime interest rate. 11 U.S.C. Section 1325(a)(5)(B). *See Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).
4. The Debtor has failed to provide the Trustee with a copy of the federal tax return or transcript of such return for the most recent tax year ending immediately before the commencement of the instant case and for which a federal income tax return was filed, in violation of 11 U.S.C. Section 521(e)(2)(A)(i).
5. The Trustee requests proof that Debtor's direct post-petition mortgage and homeowner's association payments remain current. 11 U.S.C. Section 1325(a)(6).
6. Pursuant to testimony at the meeting of creditors, the Debtor has not filed all tax returns that have come due in the four (4) years preceding the filing of this case, in violation of 11 U.S.C. Section 1308 (a). The Debtor should provide evidence that the tax returns have been filed for 2014, 2015, and 2016.

Melissa J. Davey, Chapter 13 Trustee  
Suite 200 – 260 Peachtree Street, N.W.  
Atlanta, Georgia 30303  
(678) 510-1444

7. In accordance with General Order No. 18-2015 and the annexed Statement of Rights and Responsibilities, the Debtor's attorney should timely provide proof of Debtor's \$2,087.00 per month disability income and \$1,000.00 per month roommate contribution income to the Chapter 13 Trustee. 11 U.S.C. Sections 521(a)(1), 1325(a)(3), 1325(a)(6), 1325(b)(1)(B) and Bankruptcy Rule 1007.

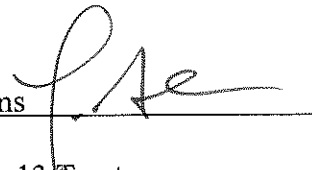
8. Pursuant to information received from the Internal Revenue Service, 2014, 2015, and 2016 tax returns have not been provided to the taxing authorities; thereby, preventing the Chapter 13 Trustee from evaluating the feasibility of the Chapter 13 Plan, in violation of 11 U.S.C. Sections 1322(d) and 1325(a)(6).

9. Pursuant to information obtained at the meeting of creditors, the debt owed to Ally Bank was incurred outside nine hundred and ten (910) days of filing. The claim is improperly treated in the plan. 11 U.S.C. § 1325(a)(5).

10. The Chapter 13 petition fails to include a debt owed to Cobb EMC, in violation of Bankruptcy Rule 1007(a) (1) and 11 U.S.C. Section 1325(a)(3) and 1325(a)(7).

11. Debtor has filed one (1) previous unsuccessful Chapter 13 case, being case number 17-57713-PMB filed April 29, 2017 and dismissed prior to confirmation August 17, 2017. Based on the foregoing, the Chapter 13 Trustee respectfully moves the Court to dismiss the instant case with prejudice, thereby rendering the Debtor ineligible for relief under Title 11 for one hundred eighty (180) days, pursuant to 11 U.S.C. Sections 1325(a)(3), 1325(a)(7), 105(a), 109(g) and 349(a).

WHEREFORE, the Trustee moves the Honorable Court to inquire into the above objections at the separately scheduled and noticed confirmation hearing, deny Confirmation of the Debtor's Chapter 13 plan and dismiss the case pursuant to 11 U.S.C. Sections 105(a) and 109(g), thereby rendering the Debtor ineligible from re-filing another Chapter 13 case for one hundred eighty (180) days.

  
/s/ Jonathan S. Adams

Jonathan S. Adams  
Attorney for Chapter 13 Trustee  
GA Bar No. 979073

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CHAPTER 13
Nekeisha Emerald Carter	)	
	)	CASE NO.: 17-64952-PMB
	)	
DEBTOR.	)	

17-64952-PMB

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served:


DEBTOR(S):  
Nekeisha Emerald Carter  
391 Heritage Park Trce NW  
Kennesaw, GA 30144

DEBTOR(S) ATTORNEY:  
King & King Law L.L.C  
215 Pryor Street, SW  
Atlanta, GA 30303

in the foregoing matter with a copy of this Objection to Confirmation & Motion to Dismiss by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

Tuesday, October 24, 2017

/s/

  
Jonathan S. Adams  
GA Bar No. 979073  
Attorney for Melissa J. Davey, Chapter 13 Trustee  
260 Peachtree Street, NW, Suite 200  
Atlanta, GA 30303  
Telephone: 678-510-1444  
Facsimile: 678-510-1450